Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Connect America Fund	)	WC Docket No. 10-90
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92

REPLY COMMENTS OF NCTA – THE INTERNET & TELEVISION ASSOCIATION

NCTA – The Internet & Television Association (NCTA) opposes the requests of incumbent LECs to shift costs to their competitors by deregulating transit and tandem-switched transport services and shifting the "network edge" to an incumbent LEC's end office. These proposals would undermine the goals of the IP transition and therefore should be rejected. As recommended by NCTA and other parties, the Commission should maintain the treatment of these services while considering additional steps to promote the IP transition.

In the *CAF Order*, the Commission found that bill-and-keep was the optimal compensation regime to govern the exchange of voice traffic in TDM format and it established bill-and-keep as the "end state for all traffic."[1] To that end, the Commission established a glide path for reducing both end office termination rates and tandem termination rates in cases where the tandem and end office are owned by the same price cap carrier.[2] In the Further Notice portion of the *CAF Order*, the Commission sought comment on when and how to complete the transition for all tandem-switched transport services and whether it was necessary to define a

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1 *Connect America Fund*, WC Docket No. 10-90, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17905, ¶ 740 (2011) (*CAF Order*).

2 *Id*., 26 FCC Rcd at 17943, ¶ 819. Tandem-switched transport rates for rate-of-return carriers were capped at interstate levels.

network edge for purposes of bill-and-keep.[3] The *Notice* asked parties to refresh the record on these issues.[4]

In their comments, the incumbent LECs seek to turn back the clock by defining the end office as the network edge and eliminating any regulation of transit and tandem-switched transport services. CenturyLink, for example, asks the Commission to reverse its 2011 decision to require price cap LECs to provide tandem-switched transport pursuant to bill-and-keep.[5] Similarly, AT&T proposes that the Commission reinterpret Sections 251(b)(5) and 251(c)(2) and deregulate all transport services, including those provided by a tandem provider that owns the end office switch.[6] Rural LECs go even further in their comments, suggesting that competitive providers should be responsible for all costs beyond the end office not just on traffic they originate, but also on traffic originated by the rural LEC.[7]

All of these incumbent LEC proposals should be rejected. The Commission long ago recognized the harmful effects of requiring competitive providers to bear responsibility for delivering traffic to every incumbent LEC end office and instead it established a regime in which competitive providers only can be required to establish a point of interconnection (POI) in every Local Access and Transport Area (LATA).[8] As explained by T-Mobile, even this "single POI

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3 *Id*., 26 FCC Rcd at 18112-14, ¶¶ 1306-10.

4 Public Notice, WC Docket No. 10-90, *Parties Asked to Refresh the Record on Intercarrier Compensation Reform Related to the Network Edge, Tandem Switching and Transport, and Transit*, DA 17-863 (rel. Sept. 8, 2017) (*Notice*).

5 CenturyLink Comments at 3.

6 AT&T Comments at 20-21.

7 *See, e.g*., NTCA Comments at 20-21; Nebraska Rural Independent Companies Comments at 14-16.

8 *CAF Order*, 26 FCC Rcd at 18116, ¶ 1316, citing *Application of SBC Communications et al.*, CC Docket No. 00-65, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18390, ¶ 78, n.174 (2000).

per LATA" regime is far less efficient than the more centralized arrangements that are common with respect to Internet traffic.[9]

The competitive harms associated with treating the end office as the network edge would be exacerbated in the context of the IP transition. As explained by Sprint and T-Mobile, IP-based traffic generally is exchanged at fewer, more centralized exchange points than TDM-based voice traffic.[10] As more and more traffic is exchanged in IP format, arrangements for the exchange of voice traffic have begun to look more like those that are used for Internet traffic. Indeed, some NCTA members are exchanging the majority of their voice traffic under such efficient arrangements. But the incumbent LEC proposals move in the opposite direction by proposing new requirements that would make IP-based providers bear responsibility for building (or paying others to provide) connections to far flung end offices of incumbent LECs that have not upgraded to IP-based technology. Given that IP-based competitors already are forced to bear the costs of converting traffic to TDM format, these proposals to move the network edge reward companies that have failed to upgrade their networks and further penalize those that have by forcing them to bear the expense of costly, inefficient TDM trunks.

Similarly, deregulating all intermediate transport services also would have the effect of perpetuating inefficient traffic exchange arrangements and discouraging incumbent LECs from upgrading to more efficient IP-based arrangements. The Commission warned in the *CAF Order* that "the continuation of transport charges in perpetuity would be problematic . . . if transport

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[9] T-Mobile Comments at 8. A different outcome would be appropriate in Alaska where the wireline network architecture differs from that in the Lower 48. As explained by GCI, Alaska has no access tandems and a far greater proportion of traffic is handled by interexchange carriers. *See* GCI Comments at 2-3. Given the realities of long haul transport across the state's unique geography, in Alaska the migration to bill and keep may be best served by designating the terminating LEC's end office as the network edge. *Id*. at 4-6.

[10] Sprint Comments at 2; T-Mobile Comments at 7.

rates are allowed to persist, it gives incumbent LECs incentives to retain a TDM network architecture and therefore likely serves as a disincentive for incumbent LECs to establish more efficient interconnection arrangements such as IP."[11] Yet six years later, the incumbent LECs not only are resisting further reform of these transport charges but also are seeking to roll back the limited reforms that already have occurred.

The Commission should reject the incumbent LEC proposals and adopt proposals that will provide more effective incentives for parties to migrate to efficient IP-based traffic exchange arrangements. In particular, as suggested by NCTA and others, the Commission should expand the universe of transport services that are subject to bill-and-keep to include all situations where the tandem owner and the end office owner are affiliated through an ownership or other financial relationship.[12] The Commission also should consider requiring companies still operating TDM-based networks to bear the responsibility for IP-TDM traffic conversion, rather than the current approach of imposing such costs on the IP-based provider.[13] By taking these steps, the Commission would be providing a strong incentive for companies to finish the transition to an all-IP environment.

Respectfully submitted,

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11 *CAF Order*, 26 FCC Rcd at 17943, ¶ 820.

12 *See* NCTA Comments at 4-5; Sprint Comments at 5.

13 *See* Sprint Comments at 4.